

## REMARKS

This Amendment is being filed with an RCE. Claims 1 through 97 are currently pending in this Application. Claims 1, 34, 39, 59 and 93 have been amended. The amendments and remarks contained herein are responsive to a final office action dated August 18, 2004.

The undersigned respectfully submits that the amendments and remarks contained herein adequately traverse the outstanding rejections to the claims and believes that all of the claims are now in condition for allowance. Early notification of same is earnestly requested.

Turning specifically to the pending rejections, Claims 1, 4-27, 32, 33, 39, 42-59, 62-85, 91 and 92 stand rejected under 35 U.S.C. §102(e) as being anticipated by Hosken, U.S. Patent No. 6,438,579. Claims 2, 3, 28-31, 34-38, 40, 41, 60, 61, 86-90, and 93-97 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Hosken in view of Lazarus, U.S. Patent No. 6,430,539.

As all of the rejections rely upon the alleged teaching of Hosken, and as the amendments and remarks addressed herein demonstrate the absence of an element of the claims as presently amended in Hosken that is not taught or suggested by Lazarus, the arguments presented below apply equally with respect to the §102 and §103 rejections, as Hosken standing alone is insufficient to support any anticipation rejection under 35 U.S.C. §102, and, the combination of Hosken and Lazarus also fails to provide a satisfactory basis for an obviousness rejection since the hypothetical combination of

Lazarus and Hosken would still be lacking all of the claimed elements recited in the presently amended claims.

Turning specifically to the examiner's rejection, independent claims 1, 34, 39, 59 and 93 have been amended to more particularly recite that the item selections from a plurality of users are based upon the detection of implicit user behavior.

Additionally, the log generated for each user in the computer is populated as a result of the acceptance of the detected item selections. Thus the claims have been amended to clarify that the user selections are gathered in the computer system based on the system collecting implicit user behavior information.

Additionally, the aforementioned claims have also been amended to clarify that the scoring in the computer of the user logs is responsive to a degree of occurrence the at least one query item identifier in the user logs so as to generate user log scores based exclusively on the detected implicit user behavior.

The above amendments distinguish over Hosken in that only implicit user behavior is detected to generate the claimed user logs. While Hosken does mention in column 14, lines 13-20 that the Hosken system can "derive" implicit ratings of music items based on system based observations of user actions, this implicit data collection is used to derive implicit user ratings for items, not for the discovering of relationships between items as a result of the collection of implicit user behavior across a plurality of user interactions. Thus the implicit information collected in Hosken at the above cited location does not correspond to the accepting and generation elements in the claims as presently amended.

Moreover, even while the above recited differences in accepting user item selections and generating user logs should be found sufficient to traverse the examiner's present rejections, an additional distinction over Hosken in the presently amended claims is in the scoring of the user logs. As presently amended the scoring is responsive to a degree of occurrence of at least one query item identifier in the user logs so as to generate user logs based exclusively on the detected implicit user behavior. Such element is lacking from Hosken, as it is neither explicitly taught nor suggested in Hosken.

Specifically, while the undersigned does not admit that the examiner's reading of Hosken with respect to making recommendations correlates to the claimed inventions, even assuming the examiner's position were true, Hosken requires the utilization of a content relation database, (identified as element 26 in Hosken), in order for any relationship to be established between one item of content and another. In the inventions as presently claimed, the scoring of the user logs with respect to one query item identifier takes place based exclusively on the detected implicit user behavior. No external content relations database is necessary as it in Hosken. This represents a significant improvement over Hosken in that implicit user behavior drives the generation of relationships as opposed to pre-programmed or "expert" generated relationships being relied upon to make recommendations as is required by the teachings of Hosken. The undersigned submits that Hosken nowhere describes the generation of user log scores based exclusively on the detected implicit user behavior. In all cases in Hosken where the generation of recommendations is discussed, explicit

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or implicit user behavior is taken into consideration along with the “content relations database” element 26. Absent this special database, the system of Hosken could not operate. It is this shortcoming, among others, that the presently amended claims are directed to curing and this claimed feature *inter alia* that distinguishes over Hosken as a reference. These features are also not taught or suggested in Lazarus, which is the other reference relied upon by the Examiner in forming the hypothetical combination upon which the present obviousness rejections are based.

Accordingly, since Hosken is missing multiple elements of the claims as presently amended, Hosken can not be relied upon as an anticipatory reference, nor can it form the basis of a satisfactory obviousness rejection in combination with Lazarus or any of the other cited art presently of record. Accordingly, the undersigned respectfully requests that the rejections under 35 U.S.C. §102 and §103 be withdrawn and the claims passed to allowance as early as possible. Should the Examiner not be in a position to allow the claims as presently submitted, the Examiner is urged to call the undersigned at the number below to discuss this eventuality.

Accordingly, for the reasons discussed above, Applicants respectfully submit that claims 1-97 are patentably distinct from the combination of Hosken and Lazarus.

On the basis of the above amendments, consideration of this application and the early allowance of all claims herein are requested.

Should the Examiner wish to discuss the above amendments and remarks, or if the Examiner believes that for any reason direct contact with Applicants' representative

would help to advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below.

While it is believed that all fees have been properly authorized, any fees due and owing as a result of the filing of this paper and those filed simultaneously herewith may be applied to deposit account No. 50-1561, in the name of Greenberg Traurig LLP.

Dated: April 12, 2005

Respectfully submitted,

By: \_\_\_\_\_

James J. DeCarlo

Reg. No. 36,120

Greenberg Traurig, LLP

200 Park Avenue

New York, New York 10166

(212) 801-9200